

REMARKS

Upon entry of this amendment, claims 1, 2, 5-23, and 37-50 are pending in the application. Claims 24-36 were withdrawn. Claims 1 and 19 are amended for clarity and 35 U.S.C. § 112 compliance (see below). New claims 37-50 have been added to claim additional disclosed, but unclaimed embodiments (see below). No new matter is added by these amendments and claims.

Reconsideration and allowance of the application in light of the amendments and arguments herein is respectfully requested. The Applicants also request a telephone interview with the Examiner to expedite discussion of the details of how the claims distinguish over the cited references and to clarify any issues that may remain, after this response, an obstacle to allowance of the claims.

New Claims

The present Application in one aspect is embodied in a system which provides advertiser bidding on search listings in a pay for placement online search system. An operator of a pay for placement online search system may have affiliate agreements with other web service providers. As explained in the present Application at page 10, line 22 – page 11, line 15, searchers may submit search queries to the affiliated web site. The search queries are submitted to the pay for placement search database and matching paid search listings are returned to the affiliate. “Preferably, from the perspective of the operator of the pay for placement search system 200, under the affiliate agreement the pay for placement search results are positioned or ranked near or at the top of the query results sent to the user. Search listings treated this way are referred to as premium listings.” An advertiser who has search listings in the pay for placement database may seek to ensure that his search listings will be among those provided to the affiliate site in order to increase exposure of his search listings to potential customers. Accordingly, one aspect of the disclosed system permits the advertiser to designate search listings as “premium search listings” having a desired

rank. In the example embodiment of the application, the desired rank or a premium search listing is limited to rank 1, 2 or 3. New claims 37-50 describe this system.

No new matter is added by new claims 37-50. To clarify that new claims 37-50 have 35 U.S.C. § 112 support in the specification, claims 45-50 are listed here as examples, along with portions of the specification that teach the features cited:

45. (New) A database search system comprising:
- a search engine database storing one or more search listings associated with advertisers, each search listing including at least one keyword and a respective bid amount, some of the search listings being designated premium search listings; (**database 228, page 6, line 2; page 10, lines 22-31**)
 - an account management storage medium storing an account management database; (**page 7, lines 15-17**)
 - a search engine web server which, in response to keyword queries from users, generates a search result list that includes search listing entries matching the keyword obtained from the bidding process conducted by the account management server, the search listing entries being ordered in the search result list with a rank order, the rank of each search listing entry being determined using the respective bid amounts for the search listings; and (**page 8, lines 4-7**)
 - an account management server (**206 in FIG. 2**) accessible over a network by advertisers using client computers, the account management server configured to
 - provide advertisers access to advertiser account information to manage the advertiser account information and,
 - upon receipt of a new bid amount and desired rank for a search listing designated as a premium search listing, to adjust without advertiser intervention the respective bid amount of the specified search listing until the rank of the specified search listing in the rank order of search listings is greater than the desired rank or until the respective bid amount of the specified search listing is less than the new bid amount; (**page 8, line 22 – page 9, line 7; page 19, lines 14-17 and FIG. 3**)
 - the search engine web server configured to receive from web sites of affiliated web service providers forwarded a search query entered by an affiliate web site searcher who accesses web pages of the affiliated web service providers and to produce search results in response to the forwarded search queries, the produced search results including one or more premium search listings for display to

the affiliate web site searcher ranked near the top of the produced search results in accordance with the desired rank.

46. (New) The database search system of claim 45 further comprising:
an advertiser web server and an advertiser database storing advertiser web pages associated with respective advertisers. **(page 10, lines 13-15).**

47. (New) The database search system of claim 45 wherein, upon receipt of a new bid amount and desired rank, the specified search listing is removed from the search engine database to the account management database. **(Page 19, lines 10-13).**

48. (New) The database search system of claim 47 wherein the account management server is further configured to identify exceptions conditions after adjusting the respective bid amount of the specified search listing and, if an exception condition is identified, to return the specified search listing to the search engine database unchanged. **(FIG. 4, page 20, lines 3-9).**

49. The database search system of claim 45 wherein the desired rank is limited to one of the ranks corresponding to premium listings. **(Page 11, lines 21-22)**

50. The database search system of claim 49 wherein the premium listings comprise rank 1, rank 2 and rank 3 corresponding to the first three search listings displayed to a user in the search result list. **(Page 11, lines 22-23)**

35 U.S.C. § 112 Rejections

Claims 1, 2, and 5-23 are rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. According to the Office Action, the term “automatically” is not mentioned in the specification with regards to adjusting bid amounts. While the term “automatically” is not specifically recited, the Applicants used that term to describe the “automated” fashion in which the bid amounts are adjusted. The Applicants consider the phrase “without advertiser intervention” perhaps a better descriptor of the automated fashion in which the system functions and so replace the disputed term therewith.

Based on amendments to the “automatically” language in claims 1 and 19, the Applicants respectfully request that the § 112 rejection be withdrawn. Additionally, note that these amendments have been made only to help clarify for the Examiner how the features of the claims distinguish over the cited art. If the language is not deemed necessary to so distinguish after this amendment and/or after an Examiner’s interview, the amended language may be deleted from claim 1 and 19. The Applicants respectfully submit that claims 1 and 19 easily distinguish over Davis (U.S. Patent No. 6,269,361) without “automatically” and/or “without advertiser intervention.”

The term “without advertiser intervention” derives support throughout the specification, beginning with teaching the features of claims 1 and 19 in relation to a pay-for-placement search system 200 (FIG. 2). The distributed system 200 includes a plurality of advertiser web servers 204 and associated database 224, an account management server 206 and associated database 226, and a search engine web server 208 and associated database 228. Page 5, line 28 to page 6, line 2. The system 200 clearly is designed to automate implementation of the algorithmic-type rules as disclosed with reference to FIGS. 3 through 5. For instance, the application states:

These advertising web site promoters or advertisers may wish to access account information residing in storage on account management server 206. An advertising web site promoter may, through the account residing on the account management server 206, participate in a competitive bidding process with other advertisers. An advertiser may bid on any number of search terms relevant to the content of the advertiser's web site. . . . In an alternate embodiment of the present invention, the relevance of a bidded search term in a search listing to the corresponding web site may be evaluated using a computer program executing at the processor of account management server 206, where the computer program will evaluate the search term and corresponding web site according to a set of predefined editorial rules.

Page 8, line 22 to page 9, line 7. Accordingly, a computer program executed by the processor of the account management server 206 evaluates the search term and corresponding web site according to the editorial rules.

Similarly, “FIG. 3 is a flow diagram illustrating a bid to position method for a pay for placement database search system such as the exemplary system 200 of FIG. 2.”

Page 11, lines 16-18. “In one embodiment, the method of FIG. 3 and the system of

FIG. 2 implement ***bid change logic*** which may be summarized by the following rules.” Page 12, lines 1-2 (emphasis added). The rules are then listed, which use the advertiser-submitted bid cap and/or desired rank to then adjust the bid amount, which also causes adjustment in rank in some cases. These rules are discussed in at least pages 12-20 of the specification. Exception conditions to those rules are then discussed with reference to FIG. 4 at page 20.

Furthermore,

FIG. 5 shows a state diagram 500 illustrating operation of a bid to position function in the pay for placement system of Fig. 2. In FIG. 5, the blocks correspond to operating states of the system and the labeled links correspond to clicked hyperlinks.

Page 20, lines 22-25. As is well understood to those of ordinary skill in the art, state diagrams and computer-run methods or processes are implemented by automated systems (e.g., 200) such as those disclosed in the specification of the Application. When computers, servers, databases, the Internet, etc., are disclosed to interact as a computerized system, an applicant need not redundantly state that the systems execute methods according to related software in an automated manner.

Accordingly, it is clear that the automated system 200 executes the bid change logic discussed at least with reference to FIGS. 3 and 4 without the advertiser's intervention, but in accordance with the algorithmic-type rules that affect where the bid amount and rank currently lie based on, for instance, a bid cap and/or a desired rank.

Previous 35 U.S.C. § 102, 103 Rejections

The Office Action states that the previous arguments with respect to claims 1, 2, and 5-23 have been considered but are moot in view of the new grounds of rejection, namely rejections under 35 U.S.C. § 112. Page 3. On page 2, item 3, however, the Office Action states that the Applicants' arguments with regards to “bid cap” are not persuasive. The Applicants respectfully submit that the bid cap feature as recited in the present claims is absent from the prior art of record.

As an initial note, claim 1 is amended for clarity that the recited steps are performed by “a pay for placement database search system” that interacts with the

advertiser, e.g., “received from the advertiser.” This feature adds nothing more than was already included in claim 19 (“in response to a desired rank and bid cap **received from an advertiser**”), and thereby adds no new matter. Furthermore, this language makes clear that the method of claim 1 and the database search system of claim 19 is receiving items such as the bid cap and desired rank from the advertisers so as to act on behalf of the advertiser in adjusting the bid amount as explained above. If the Examiner thinks it necessary, claim amendments may be included to make clear that the method and system act on behalf of the advertiser, but the Applicants submit that this is sufficiently clear given the language and context of the claims.

The Office Action mailed May 7, 2007 stated that the Davis reference (U.S. Patent No. 6,269,361) discloses “bid cap” as “the current balance.” Item 12, page 4. The Applicants’ rebutted that “the current balance” is the same as a “bid cap” in a response dated July 20, 2007, pages 10-11. The present Office Action mailed on October 4, 2007 has changed what is considered to be disclosed in Davis as a “bid cap” from “the current balance” to the “bid amount.” Item 3, page 2. The applicants respectfully submit that in neither of these last two Office Actions is there included an explanation of why “the current balance” or the “bid amount” are considered to disclose a “bid cap.”

Turning to the present Office Action, with regards to “bid amount,” independent claims 1 and 19 both recite both “bid amount” and “bid cap.” That the Office Action does not reject these terms as indefinite suggests that they cannot be the same thing. They are in fact distinct, both as recited in the claims and as taught in the Application. The following portions of claims 1 and 19 exemplify use of “bid amount” and “bid cap” in claims 1 and 19 (emphasis added):

Claim 1:

storing one or more search listings associated with an advertiser,
each search listing including a respective **bid amount**;
receiving from an advertiser a **bid cap** and a desired rank for
selected search listings;
adjusting, without advertiser intervention, the respective **bid amounts** for
the selected search listings according to the **bid cap** and the desired rank, the
search listings being re-ordered in accordance with the received bid cap; and

if a tie condition makes a desired rank unavailable for a respective search listing, incrementing a **bid amount** for the respective search listing.

Claim 19:

a database configured to store search listings associated with one or more advertisers, each search listing including a respective **bid amount**;

second program code to update one or more listings of the database in response to a desired rank and **bid cap** received from an advertiser using the advertiser access page;

wherein the search listings are re-ordered without advertiser intervention in accordance with the received desired rank and **bid cap**, the second program code further to determine if a tie condition makes a desired rank unavailable for a respective search listing, and if so, to increment a **bid amount** for the respective search listing.

From the plain language of claims 1 and 19, “bid amount” is distinct from “bid cap.” The Application also distinguishes the two. For instance, “[t]he **bid cap** is the maximum dollar amount at which the bid of a search listing may be set by the system. **Bid amounts** less than or equal to the **bid cap** are acceptable.” Page 11, lines 19-21 (emphasis added).

Each search listing includes a bid amount, which is adjustable, e.g., in the case of a tie condition or without advertiser intervention according to the bid cap and the desired rank. As the bid amount is adjusted, therefore, the bid cap is considered so that the bid amount does not exceed the bid cap. The bid cap is the reason that adjustments can be made without running into budget problems, e.g., without concerns regarding financial constraints of individual advertisers, especially in light of increasingly large numbers of bids and search listings that make management thereof too complex to manage through a standard bidding page such as disclosed in FIG. 1, the prior art. See Background, page 4, lines 4-15. FIG. 1 has similar features to those of Davis cited to in the Office Actions.

Clearly Davis discloses use of a “bid amount,” but just as clearly Davis does not teach a “bid cap” as recited in the pending claims, e.g., a bid amount that should not be exceeded during bid amount adjustment done on behalf of an advertiser. The Applicants respectfully submit that in light of the foregoing and all the previously-

submitted arguments in regards to the rejected claims that Davis fails to teach a "bid cap" as claimed herein.

The Applicants have also not received from the Examiner any substantive arguments or explanation as to how the features drawn to "a tie condition" in claims 1 and 19 are taught by Davis or by any other reference. For at least these reasons Davis does not anticipate or render obvious claims 1 and 19; the Applicants respectfully request allowance of the same and the claims dependent therefrom.

With this response, the application is believed to be in condition for allowance. The Applicants, nevertheless, request a telephone interview with the Examiner to expedite discussion of the details of how the claims distinguish over the cited references and to clarify any issues that may remain, after this response, an obstacle to allowance of the claims.

Respectfully submitted,

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